REMARKS

This is intended as a full and complete response to the Office Action dated October 19, 2005, having a shortened statutory period for response set to expire on January 19, 2006. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-30 are pending in the application. Claims 1-3, 5-7, 9-12, 14, 15, 17-23, 25, 26 and 28-29 remain pending following entry of this response. Claims 1, 6, 9 and 20 have been amended. Claims 4, 8, 13, 16, 24, 27 and 30 have been cancelled. Applicants submit that the amendments do not introduce new matter.

Double Patenting

Claims 1-30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-34 of copending Application No. 10/037,595. Applicants acknowledge the double patenting rejection made in the Office Action mailed October 19, 2005, and respectfully request that the rejection be held in abeyance because (i) no claim in the present application is currently allowable and (ii) the application on which the rejection is made (No. 10/037,595) has not issued. Because it is possible that no claims will issue, or that the claims of the present application will be amended in such a way to overcome the Examiner's concerns regarding double patenting, Applicants defer responding until the present rejection ripens into an actual double patenting rejection.

Claim Rejections - 35 U.S.C. § 103

Claims 1-7, 9-11, 13-18, 20-22 and 24-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nair* (US 2003/0217184) in view of *Beighe* (USPN 6,055,576).

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The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *See* MPEP § 2142. To establish a *prima facie* case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* MPEP § 2143. The present rejection fails to establish at least the first criteria.

Regarding claims 1, 9, and 20, *Nair*, in view of *Beighe*, does not teach or suggest all the claim limitations. For example, *Nair* in view of *Beighe* fails to disclose "processing an input operation issued from a sockets server application to a sockets layer of the computer, wherein the input operation is configured with a buffer mode parameter indicating to the sockets layer a buffer acquisition method for acquiring a buffer for containing data received from a remote source via a network connection," as recited in claims 1, 9 and 20. The combination of *Nair* in view of *Beighe* fails to disclose these limitations as recited by claims 1, 9 and 20.

Nevertheless, the Examiner asserts that *Beighe* "further discloses the buffer is allocated from storage owned by the server application based on the value of the buffer mode parameter (i.e. direction)([*Beighe*] col.3, lines 10-50)." *See Office Action*, p.5-6. The passage, however, is directed to the actions of a cable modem in passing data packets up or down the layers of a network communication protocol stack running on the cable modem. Presumably, the Examiner's reference to "direction" is related to the description in *Beighe* of data packets being passed through the cable modem in upstream or downstream directions. However, nothing in *Beighe* discloses the recited limitation of a buffer mode parameter that indicates a buffer acquisition method for acquiring a buffer. At most, the passage relied on by the Examiner discloses that "the data is packetized and stored in a buffer controlled by application 30." *Beighe* 3:46-49. Applicants submit the general observation made in *Beighe* – that an application may store data in a buffer – fails to disclose the recited limitation of a buffer mode parameter

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that indicates a buffer acquisition method for acquiring a buffer, as recited by claims 1, 9 and 20.

Furthermore, *Beighe* and *Nair* are silent as to the size of a buffer. The Examiner concedes as much in reference to dependent claim 8, noting that *Nair* "does not specifically state the buffer request specifies a size of the buffer equal to the size of the data, however, it is well known that memory requests can include a size of memory which is needed to store the data." *See Office Action*, p.5. However, a request for a buffer is not a memory allocation request; plainly, it is a request for a buffer. This fact is supported by the passage cited by the Examiner describing the "available buffers" as a linked list data structure:

> In one embodiment, the buffer is located at the head of the linked list, such as buffer 301, pointed to by a beginning of table pointer 301. In other embodiments, the buffer is located at the tail of, or elsewhere within, the linked list, for example, buffer 305, which is at the end of the list as indicated by the fact that the pointer 306 in buffer 305 to the next buffer points to the end of the table, or has a null entry 307.

Nair, ¶ 25. Because the buffers are pre-existing, the system disclosed by *Nair* does not, by definition, deliver a buffer "sized exactly to the size of the data received from the remote data source" after receiving the data. Because *Nair* is directed to processing packetized data in a network communication stack and because data packets have defined maximum sizes, Applicants' submit that the "appropriate size of a buffer" as used by *Nair* would simply be a buffer of the maximum size for a given data packet type. Nothing in this passage discloses the recited step of obtaining the buffer according to the buffer mode parameter, wherein the obtained buffer is sized exactly to the size of the data received from the remote source, as recited by claims 1, 9 and 20.

More generally, the Examiner's reliance on *Nair* is misplaced. *Nair* is directed to processing data frames up (and down) a communications protocol stack, and not to the operations of a sockets server application, as recited by claims 1, 9, and 20. *Nair* describes that a "buffer manager 114 maintains a pool of available buffers from which a protocol module may select or be allocated a buffer for temporary storage of the frame

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of data." *Nair,* ¶ 25. In contrast, the present claims recite receiving, at a socket configured for a server application executing on a computer, data from a remote source via a network connection (*See e.g.,* claim 1).

Respectfully, the techniques disclosed in *Nair* of passing a pointer to different software modules of a protocol stack fails to disclose anything about operations performed once the server application receives a data frame. In fact, *Nair* expressly indicates that the shared buffer used by the protocol stack may be discarded (or returned to the buffer pool) once a frame is provided to a server application. Specifically, *Nair* provides:

> "[P]rocessing of the data frame continues up the protocol stack until processing of the data frame by the machine is competed. **At such time, the data is read from the buffer at 230 and, for example, provided to an application software program.** At this point, **for example, the buffer is no longer needed** for temporarily storing the data pockets while the various protocol software modules in the protocol stack process the data frame."

Nair, ¶ 28. As the highlighted passage demonstrates, the usage of a common buffer disclosed by *Nair* is unrelated to a method for a server application to acquire a buffer to store data received over a socket. In fact, *Nair* discloses that once the data frame is provided to the server application "**the buffer [used by the network protocol software modules] is no longer needed.**" Clearly, the operations performed by the server application are distinct from those used to manage a buffer within different layers of the protocol stack. Unlike the system disclosed by *Nair,* where the "buffer is no longer needed" by the protocol stack, the present claims recite, obtaining the buffer according to the buffer mode parameter, wherein the obtained buffer sized exactly to the size of the data received from the remote source; and allocating the obtained buffer to contain the data. These steps occur *after* (from the perspective of the system disclosed by *Nair*) "the buffer is no longer needed." Therefore, *Nair* in view of *Beighe* fails to disclose the limitations recited by claims 1, 9, and 20.

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For all the foregoing reasons, Applicants' believe that claims 1, 9, and 20, and the dependent claims are allowable, and, therefore, respectfully request the allowance of these claims.

Claims 12 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Nair* in view of *Beighe* in view of *Glasser et al.* (USPN 5,764,890, hereinafter *Glasser*).

Applicants submit that as demonstrated above, *Nair* in view of *Beighe* fails to teach or suggest the invention as recited by independent claims 9 and 20. Accordingly, Applicants believe that the rejection of dependent claims 12 and 23 is obviated without the need for further remarks.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Nair* in view of *Beighe* in view of *Fry et al.* (USPN 4,467,411, hereinafter *Fry*).

Applicants submit that as demonstrated above, *Nair* in view of *Beighe* fails to teach or suggest the invention as recited by independent claim 9. Accordingly, Applicants believe that the rejection of dependent claim 19 is obviated without the need for further remarks.

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Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

If the Examiner believes any issues remain that prevent this application from going to issue, the Examiner is strongly encouraged to contact Gero McClellan, attorney of record, at (336) 643-3065, to discuss strategies for moving prosecution forward toward allowance.

Respectfully submitted, and
S-signed pursuant to 37 CFR 1.4,

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